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6                   **IN THE UNITED STATES DISTRICT COURT**  
7                   **FOR THE DISTRICT OF ARIZONA**

8  
9 Dina Galassini,

No. CV-11-02097-PHX-JAT

10                   Plaintiff,

**CONSENT JUDGMENT**

11 v.

12 Town of Fountain Hills, et al.,

13                   Defendants.

14                   This Consent Judgment is made and agreed upon by and between Dina Galassini  
15 and the Town of Fountain Hills (the “Town”).

16                   **RECITALS**

18           1. Ms. Galassini initiated this litigation against the Town on October 26, 2011. The  
19           basis of her claims was that her free speech and association rights had been  
20           violated by the application of certain Arizona campaign finance laws found in  
21           Title 16 of the Arizona Revised Statutes.

23           2. The next day, October 27, 2011, the State of Arizona intervened into the litigation  
24           as Intervenor-Defendant to defend the constitutionality of the challenged state  
25           laws.

27           3. On November 3, 2011, the district court granted Ms. Galassini’s Motion for  
28           Preliminary Injunction, prohibiting the application and enforcement of the

- 1 challenged state laws as to Ms. Galassini so that she could “speak and associate  
2 with others and hold her protests between now and November 8, 2011.” [DOC  
3 33]
- 4 4. This preliminary injunction was granted over the objections of both the Town and  
5 the State of Arizona.
- 6 5. Since the conclusion of the preliminary injunction proceedings, the Town has  
7 taken no position on the constitutionality of the Arizona Revised Statutes at issue  
8 in this litigation.
- 9 6. On September 30, 2013, the district court granted in part Ms. Galassini’s motion  
10 for summary judgment. The district court also denied in part Ms. Galassini’s  
11 motion for summary judgment and also denied the Town’s motion for summary  
12 judgment. [DOC 106]
- 13 7. The district court found the definition of political committee, Arizona Revised  
14 Statutes § 16-901(19), to be unconstitutionally vague because people of common  
15 intelligence must guess at the law’s meaning and will differ as to its application.
- 16 8. The district court found the definition of political committee, Arizona Revised  
17 Statutes § 16-901(19), to be unconstitutionally overbroad because it sweeps in a  
18 substantial amount of constitutionally protected speech without any sufficiently  
19 important governmental interest in regulating such speech.
- 20 9. The district court found Arizona’s campaign finance statutory scheme, Arizona  
21 Revised Statutes §§ 16-901 *et seq.*, to be unconstitutionally burdensome for  
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1 groups that spend less than \$500 because those burdens are not substantially  
2 related to the government's disclosure interest.  
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- 4 10. The district court found that these Arizona statutes have violated Ms. Galassini's  
5 First Amendment rights.  
6 11. The district court found that there is a disputed question of fact as to whether the  
7 Town of Fountain Hills has a policy of applying state statutes regardless of their  
8 constitutionality. [Doc 106]

9  
10 **CONSENT JUDGMENT**  
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12 The constitutionality of the statutes at issue now decided, the Town and Ms.  
13 Galassini consent to the entry of a final judgment as to the Town as follows:

- 14 A. The Town, having taken no position on the Arizona Revised Statutes at  
15 issue in this litigation and instead having deferred to the State of Arizona to  
16 defend the constitutionality of the statutes, consents to an entry of judgment  
17 in accordance with the Court's findings declaring Arizona Revised Statutes  
18 § 16-901(19), to be unconstitutionally vague and overbroad, and declaring  
19 Arizona Revised Statutes §§ 16-901 *et seq.*, to be unconstitutional as  
20 applied to groups that spend less than \$500, all as set forth in the district  
21 court's decision of September 30, 2013.  
22  
23 B. The Town admits to liability under *Monell v. Department of Social*  
24 *Services*, 436 U.S. 658, 694 (1978). Specifically, the Town admits its  
25 officials—the town clerk, interim town manager, and town attorney—did  
26 not make an independent determination as to the constitutionality of the  
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1 applicable Arizona state statute prior to the Town's adherence thereto and  
2 made a conscious decision to send the October 12, 2011 letter to Ms.  
3 Galassini. At that time, the town officials believed in good faith that the  
4 Arizona Revised Statutes were constitutional. The letter informed Ms.  
5 Galassini that based on the plain language of the statute as well as guidance  
6 and training provided by the Arizona Clerks' Association and the Secretary  
7 of State's Office, Ms. Galassini could become a political committee if any  
8 additional person or persons joined her effort.

- 11 C. The Town agrees to be bound by the terms of any injunction or other  
12 equitable relief entered by any court during the remainder of this litigation.
- 14 D. The Town agrees to pay Ms. Galassini \$1 in nominal damages and \$2,500  
15 in attorneys' fees and costs.
- 17 E. Ms. Galassini waives any claim for further nominal or actual damages  
18 against the Town, or any claim for further attorneys' fees and costs arising  
19 from this litigation.
- 20 F. Ms. Galassini waives all of her prior, existing, or future rights to any relief  
21 of any kind arising out of or related to this litigation (known and unknown)  
22 from the Town and its agents, employees, officers, divisions, successors,  
23 and assigns other than the relief set forth in paragraphs C and D, above.  
24 This waiver covers this litigation only and does not preclude Ms. Galassini  
25 from filing a new lawsuit in the event a change of circumstances causes the  
26 Town or its agents, employees, officers, divisions, successors, or assigns to

1 apply or enforce, threaten to apply or enforce, or cause to be applied or  
2 enforced, unconstitutional campaign finance laws to Ms. Galassini.  
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5 **Approved as to Form:**

6 Dated: July 15, 2014

By: /s/ Paul V. Avelar

7 Paul V. Avelar (023078)

8 Timothy D. Keller (019844)

9 INSTITUTE FOR JUSTICE

10  
11 Dated: July 15, 2014

By: /s/ Jeffrey T. Murray

12 Jeffrey T. Murray (019223)

13 Kristin M. Mackin (023985)

14 SIMS MURRAY LTD

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16 Based on the foregoing,

17 IT IS ORDERED granting the parties' Stipulation to Proceed by Consent  
18 Judgment (Doc. 137).

19 IT IS FURTHER ORDERED that the foregoing proposed Consent Judgment is  
20 APPROVED and ADOPTED as the final judgment of this Court as to all claims  
21 between Dina Galassini and the Town. Pursuant to Federal Rule of Civil Procedure 54(b),  
22 the Court finds there is no just reason for delay in entering this judgment.

23  
24 Dated this 16th day of July, 2014.

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28 James A. Teilborg  
Senior United States District Judge